



PECFA POST



A newsletter created and distributed by the Wisconsin Department of Commerce, Bureau of PECFA Site Review Section

PECFA POST, Volume 2, Issue 2

July 2002

“Hot Off The Press” Claims Section Added To The Post!

In continued efforts to keep you informed of changes in the PECFA Program, the PECFA Post will be expanding to cover all areas and issues of the PECFA Program including claims. Future Post issues will now contain articles and comments informing you of changes in the claim review process. Including information from the Site and Claims Sections will make claims submissions go through the review process easier and faster.



GIS Checklist Before Closure Submittal

When GIS is applicable, the information on the GIS checklist is required before closure assessment by Commerce or the DNR will occur. In addition, a case closure submittal will be considered complete only upon confirmation of the paid GIS fee. GIS Registry package preparation costs incurred prior to November 1, 2001, are not eligible for PECFA reimbursement.



The GIS Checklist Requirements are attainable from the DNR website. The link for detail on the required information is: <http://www.dnr.state.wi.us/org/aw/rr/archives/pubs/RR688.pdf>.

Updated Regulations “Out with the old, in with the new!”

Numerous changes have occurred within the past year, and various changes are occurring

which include the bidding process. When reviewing the forms and regulations, please ensure the most current forms and regulations are used.

The following links can be used to locate the most recent version of forms:

PECFA Webpage:

<http://www.commerce.state.wi.us/ER/ER-PECFA-Forms.html>

DNR RR Webpage:

<http://www.dnr.state.wi.us/org/aw/rr/index.htm>

Wisconsin's Legislature Webpage

<http://www.legis.state.wi.us/nav/wislaw.htm>

Modifying Public Bid Caps

Commerce is announcing a new procedure in the Public Bid Process that will allow modification of the remediation cost cap established through the Public Bid Process under limited circumstances when closure is denied and more work is necessary to obtain closure.

Claimants, consultants, and lenders have expressed the need for more flexibility in evaluating and establishing the cost caps and “change orders” for remediation activities since the implementation of the Comm 47 rule changes in April 1998. Consulting firms have also expressed disappointment with being the “low bidder” and not signing the contract to complete the work. Some claimants have been concerned that the successful bidder's remedial strategy is inadequate to achieve closure, even where DNR and/or Commerce believes the approach is viable. Moreover, Commerce is noticing a decline in the number

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of consulting firms participating in the Public Bid Process and in the number of bids received per site. Commerce is confident that the current process develops an appropriate remedial strategy and establishes the least costly remedial method, we are hopeful the new procedures described below will increase claimant confidence and consultant participation in the Public Bid Process.

Commerce (where Commerce has the administrative authority) and Commerce and DNR (where DNR has authority), may modify the cost cap established through the Public Bid Process under the following conditions:

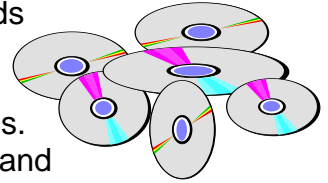
- The successful bidder must be selected by the claimant to perform the remediation through closure,
- The remedial strategy (work scope), as defined in the successful bidder's bid response has been completed, and
- A closure request submitted prior to exceeding the cap has been denied.

Consistent with existing rules, the consultant must notify Commerce prior to exceeding a cost cap. A cost estimate provided by the consultant or the Public Bid Process will establish the amount of additional funds necessary to obtain closure.

If the claimant selects a consulting firm other than the successful bidder to carry out the remediation through closure, Commerce will not modify the cost cap established through the Public Bid Process. Commerce will consider modifications only if the lowest successful bidder is actually used by the claimant. If bidders continually submit bid responses containing a Total Bid Cost that is insufficient to achieve closure or if they fail to complete the stated remedial strategy, Commerce may disqualify individual bids and/or disqualify the submitter from future public bidding.

Electronic GIS Registry Submittal's

The Remediation and Redevelopment Program is moving towards replacing paper submittals with electronic submittals.



Therefore, consultants and representatives of responsible parties are strongly encouraged to submit their GIS Registry package documents electronically. The DNR has developed a guidance that outlines the appropriate format and procedures for electronic submittals of the GIS Registry documents.

Currently, two paper copies of the GIS Registry submittals are required by the DNR. However, the guidance explains that an electronic copy may be substituted for one of the paper copies. In addition, you may also choose to submit one complete paper copy and a mixed submittal where a portion of the second copy is submitted electronically. For example, if reducing a map to the required paper submittal size (8.5 by 14 in.) causes a loss of detail, then the consultant or representative of the responsible party may provide the map electronically in its original format. The guidance further describes in detail the file format, disks and signature page requirements for voluntary electronic submittals.

The DNR "Guidance for Electronic Submittals for the GIS Registry of Closed Remediation Sites", publication RR-690 is available online at:

<http://www.dnr.state.wi.us/org/aw/rr/archives/pubs/RR690.pdf>

Should you have any questions and/or comments regarding the guidance for the GIS Registry, please direct your calls to the local DNR office.

Note: This guidance specifically deals with the voluntary electronic submittals of the Groundwater GIS Registry Package information required by the GIS rule, not the entire Case Closure Request.

Requirements of all Sites

The very first issue of the PECFA Post gave a summary of topics that were discussed at the Commerce/DNR Consistency meeting held on December 2, 2000. Since that time it appears that questions still remain regarding some of the issues that were discussed in the March 2001 issue. Two topics we will briefly discuss summarizes minimum requirements for completing a site investigation and site classification.

Site Investigation

Site Investigation guidelines outlined in NR 716 emphasizing, but not limited to, the following site investigation procedures:

- Determine the degree and extent of soil and groundwater contamination.
- Provide geologic and hydrogeologic information for the site.
- Determine the hydraulic conductivity of contaminated saturated soil. Hydraulic conductivity must be determined where contaminated groundwater is found.
- Identification of any private well within 100 feet and/or municipal well within 1000 feet from a point of standard with a NR 140 Enforcement Standard (ES) exceedence.
- Investigate migration within utility corridors, under building foundations or a permeable soil layer.
- Assess contaminant plume behavior.
- When determining analytical parameters for groundwater samples, refer to Appendix C of the 1999 natural attenuation guidance, Publ. RR-614, "Interim Guidance On Natural Attenuation For Petroleum Releases".
- Demonstration of natural attenuation per NR726.05(2)(b)1.f.

Note: Groundwater use restrictions are NOT required in ROW's (Right-Of-Way's) with an ES exceedence. The RP must give written notification to the municipality or the Department of Transportation, dependent on the location of the ROW, and a signed copy of the notification must be sent to the department with regulatory authority.

Site Classification

- Site classification will occur after the site investigation has been completed.
- The RP / consultant is directed to submit the SIR to the appropriate agency after it has been determined that the site investigation has been completed, unless;
 - The site meets the 60K requirements, then a notification must be sent to both agencies. For 60K sites, only a final closure report summarizing the site investigation is to be submitted to the agency with jurisdiction, unless otherwise requested. If the site is being transferred to COMM after completion of the SIR, the DNR must be notified of the transfer.

Re-Writing of Comm 47

Recently Commerce has begun the process of evaluating Comm 47 for the purpose of revising the code. This is the most extensive revision to Comm 47 since the creation of the Department of Commerce in 1995.

A Comm 47 Code Committee has been formed. This committee consists of Commerce staff and external stakeholders such as Consultants, Responsible Parties and Lender Institutions. The committee was formed to create a draft of the revised Comm 47. Once the draft has been completed, Commerce will conduct public hearings to obtain outside public opinion of the revision. Future issues of the PECFA Post will keep you informed of the hearing dates. Additional information, such as meeting dates, time and location, meeting agendas and notes, and committee members, can also be found on the PECFA website at:

<http://www.commerce.state.wi.us/ER/ER-PECFA-Home.html>

Funding for Site Investigations

There is some confusion as to how PECFA funding is allocated for site investigations and fast track 60K remedial action plans (RAP's).



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Site Investigation caps per Comm 47.335 and Comm 47.337 are set at \$40,000.00 (40K). This allotted 40K is for the investigation of the **entire site** (property) regardless of the number of occurrences that are identified. An occurrence is defined in ss.101.143(1) as "a contiguous contaminated area resulting from one or more petroleum product discharges". Occurrences are separated through the verification of a clean (non-detect) groundwater and soil sample.

Upon completion of the site investigation the occurrence will either be sent through the public bidding process or a 60K Remedial Alternative Plan (RAP) will be declared. If more than one occurrence has been identified during the investigation, a 60K RAP can be declared for each separate occurrence.

Like to review a file?

If you would like to review a file, regardless of its location, you will have to contact Kristi Hammes (608) 267-3753 in Madison. She will assist you in setting up a date and time for you to view the file. See page 6 for additional contact information.

EPA Soil Screening Levels (RR-682)

A new publication, "Determining Residual Contaminant Levels Using the EPA Soil Screening Level Web Site", publication RR-682, is now available to the public at

<http://www.dnr.state.wi.us/org/aw/rr/archives/pubs/RR682.pdf>. The EPA soil screening Level web site is a risk-based calculation tool that allows users to perform the algorithms to determine soil screening levels (SSLs) for various chemical compounds.

The RR-682 publication describes how to use the EPA SSL web site in calculating soil residual contaminant levels (RCLs) in accordance with chapter NR 720 (Soil Cleanup Standards), Wis. Adm. Code. The RR guidance illustrates how to use appropriate Wisconsin default parameters in order to determine generic residual contaminant levels (RCLs). These illustrations further explain which parameter values to change, and what to substitute them with, in determining generic direct-contact RCLs and generic groundwater pathway RCLs. The EPA web site is linked to current toxicological, chemical and physical properties data, therefore the EPA web-calculated SSL is more up-to-date than the generic SSL.

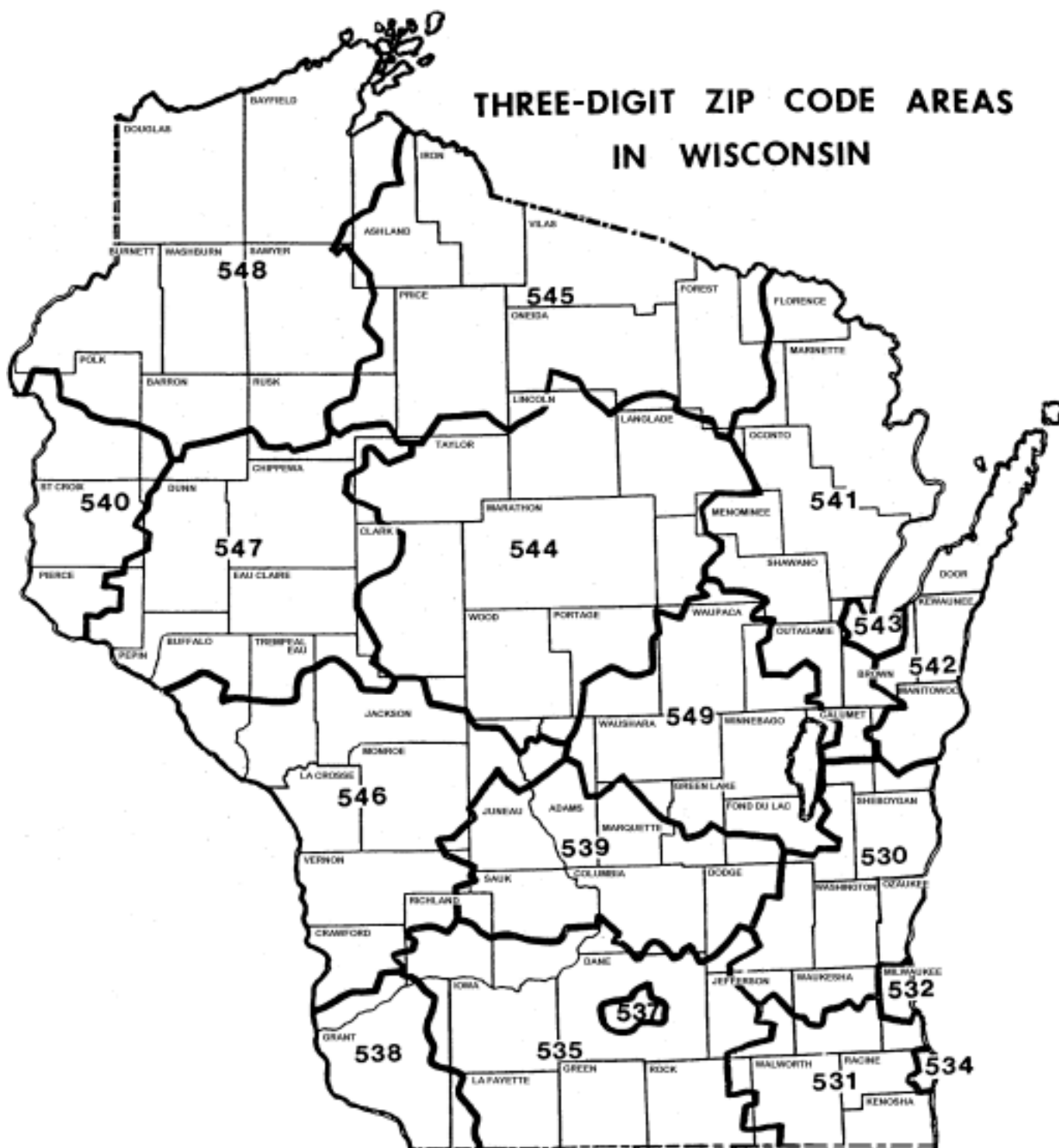
The EPA SSL web site is an excellent resource tool for evaluating environmental and human health risks at petroleum contaminated sites. Therefore, Commerce recommends the use of publication RR-682 (<http://www.dnr.state.wi.us/org/aw/rr/archives/pubs/RR682.pdf>) in becoming familiar with the EPA SSL web site (<http://risk.lsd.ornl.gov/epa/ssl1.htm>).

Circulation of the PECFA Post and Request for Topics of Concern

In a continued effort to expedite the circulation of future newsletters, they will be distributed electronically. If you would like to be placed on the e-mail list please forward your e-mail address to Kristi Hammes at khammes@commerce.state.wi.us, or in writing at the address listed on page 6. Please note that the PECFA Post is also available on the Commerce Web Site. If you prefer, you may still request that a hard copy be sent to you. Kristi is the current point of contact for the PECFA POST newsletter.

Thank you for your replies to topics covered in previous editions of the PECFA Post. Many suggestions for other topics have also been received. These topics will be taken up in future issues. Commerce would like to continue to hear from you, the consultant, about topics that you would like to have covered in future newsletters and training sessions. Please continue to send your comments and suggestions to Kristi Hammes.

PECFA Site Review Zone Coverage Map



PECFA Site Review Zone Contact Information

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549		Tom Verstegen (920) 424-0025	WI Dept of Commerce 2129 Jackson St Oshkosh WI 54901-1805 FAX 920-424-0217